Supreme Court, U.S.
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No. 574

In the

Supreme Court of the United States

OCTOBER TERM, 1963

ROBERT M. WILLIAMSON, JR. AND MARJORIE WILLIAMSON, INDIVIDUALLY AND AS INDEPENDENT EXECUTORS OF THE ESTATE OF EFFIE GILMER WILLIAMSON, DECEASED,

Petitioners,

v.

THE HONORABLE PAUL PEURIFOY, JUDGE OF THE 95TH DISTRICT COURT IN DALLAS COUNTY, TEXAS,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

SUPPLEMENTAL QUESTIONS AND ADDITIONAL EXHIBITS TO PETITIONERS' PETITION FOR A WRIT CERTIORARI

ROBERT M. WILLIAMSON, JR.
MARJORIE WILLIAMSON,
Individually and as Independent Executors of the Estate of Effie Gilmer Williamson, deceased,
Pro Se
4923 Gaston Ave.
Dallas, Texas

November, 1963

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Exhibits:

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2. Copy of Designation 8

3. Letter from Mr. Goodell, Nov. 15, 1963 9

4. Copy of an Excerpt from an Exhibit filed as an Exhibit to a motion filed by Petitioners on April 24, 1962 (*from Transcript of Proceeding, April 20, 1961*). The Transcript and the original instrument from which the Transcript was made were filed April 24, 1962 or subpoenaed on May 18, 1962 by Petitioners to be identified by the witness, Petitioners subpoenaed to testify on May 25, 1962 Respondent denied Petitioners due process of law in the 95th District Court in Dallas County, Texas on March 17, 1961, whom the Federal District Judge would not permit to testify on May 25, 1962 to prove Respondent denied Petitioners due process of law 10

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To The Chief Justice of the United States and the Associate Justices of The Supreme Court of the United States:

Petitioners follow the Brief for Respondent in Opposition with questions and exhibits Supplemental to the Original Petition for or Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

SUPPLEMENTAL QUESTIONS

1. Can the disqualification of Respondent be considered absolute under the following circumstances?

a) After the first asserted "disqualification", orders" by Respondent's clerk were issued concerning No. 76935 A/D to the assignment clerk in Dallas County, Texas.

b) After asserting "absolute disqualification" on May 16, 1962 on September 10, 1962 Respondent sent petitioners a ten day card threatening to dismiss No. 76935 A/D pending in his court before an appeal from petitioners' suit in equity could be heard in the United States Court of Appeals, Fifth Circuit.

c) Respondent has not admitted prejudice. Without admitting prejudice Respondent's disqualification cannot be considered "absolute." As long as 76935 A/D remains in Respondent's Court he can re-enter the case at any time.

There is no proof that the disqualification of Respondent is absolute but from his actions the conclusion can only be he so called "disqualification" of Respondent is not absolute. His defense appears predicated on preventing removal of No. 76935 A/D from his Court.

2. Does not the fact that Respondent is represented before this Court by a member of a law firm toward a member of which Respondent showed prejudice in favor of when he signed an order written by said attorney before hearing all the exceptions to a petition before his Court show a prejudiced court and is not a prejudiced court one which is contrary to due process?

3. Does this Court find in *Appellants' Brief* pages 1 and 2, pages 14 and 15 that jurisdiction in Equity was alleged pursuant to *U.S.C.A.* 28 §1331, *Note* 52 and that after jurisdiction in equity was conceded *U.S.C.A.* 28 §2283 was added?

4. Does this Court find in Exhibit 1 (a) *"delete the Marginal Note" on page 75 of the mimeographed record"* and that the deletion refers to *U.S.C.* 28 §2283 and does this Court find in error U.S.C.A. 2281—2283 (p. 38 mimeographed record) refer in error to the removal statute?

The record shows that petitioners made errors, not on facts.

Further defendant as a Judge on a State District Court enjoys judicial immunity and relief for petitioners is only available in a United States Court in equity.

Exhibit 1, page

5. By comparing Exhibit 2 with the Index to the Mimeographed Record is it not evident to this Court that the Clerk of the United States Court of Appeals omitted certain data designated from the Mimeographed Record, namely "Exhibits," markings SG 5-RF, and a letter?

Exhibit 2, page

6. Is it evident to this Court that Respondent made one statement in an affidavit that there was one pre-trial hearing on 76935 A/D lasting ½ day (mimeographed record p. 97) and permitted two different statements concerning pre-trial hearings to be entered in his behalf in Brief For Respondent In Opposition:

1. *p. 5 "In March, 1961 Respondent held pre-trial hearings lasting a half of one day and most of another day."*

2. *p. 7 "Despite this request a total of a day and a half was devoted to this pre-trial hearing."*

and do not the three different statements appear significant to this Court as follows:

a) that the three changes of statement about so-called pre-trial hearings in March, 1961, in the 95th District Court show that Respondent has not a good memory and was and is not familiar with the instruments in the record filed to be considered at the so-called pre-trial hearing?

Is it credible a Judge who remembered the instrument filed for the first hearing by Mr. Goodell to be a general demurrer would be so foolish as to make an affidavit that he spent ½ a day in a so-called "pre-trial hearing considering a general demurrer?

Is it credible that a Judge who read a brief filed in his behalf, if he remembered the contents of page 5 of said brief when he read page 7, would permit two different statements about the same facts on successive pages to remain in a brief filed in his behalf?

Is it not reasonable to conclude Respondent has not a good memory and does not specifically remember what occurred at the two successive so-called pre-trial hearings in his Court

and that he is not now and was not on March 17, 1961 familiar with the data before his Court to be considered at the hearings?

b. that the Exhibits, copies of the instruments used at the so-called pre-trial hearings were not sent with the Record to this Court so that this Court could use them as a check on the accuracy of Respondent's statements?

Further, if Respondent remembered that in the first so-called pre-trial hearing he raised the question of the propriety of venue for No. 76935 A D in his Court rather than in the Federal Court because he found properties to be recovered in No. 76935 A D were in two states, does it appear credible to this Court that Respondent would now permit a brief to be filed in his behalf in which he is represented opposing removal of No. 76935 A D from a state district court to a Federal district court?

7. Is not a Federal question of due process involved when prejudice against litigants is shown in a State Court and the attorney in whose favor the prejudice was evidenced continues to represent Respondent in whose Court the prejudice was and continues to be evidenced?

See Exhibit 3, p.
Letter of Mr. Goodell dated Nov. 15, 1963.

8. Has the Brief for Respondent in Opposition any meaning except to contradict the record?

For example pp. 7, 9.

"The United States District Court did not remand any action to the State Court. Said Plaintiffs never took any steps to remove the State Court suit to the United States Court."

Petitioners refer this Court to the transcript of proceeding May 25, 1962. Judge Davidson "the only thing before us is this Court's power to tell Judge Peurifoy to re-instate this case."

Petitioners considered a re-instatement of 76935 A D was the case referred to by Judge Davidson.

Petitioners respectfully submit that on May 1, 1962 they filed a petition for removal for 76935 A D to the United States District Court as an amendment to the original motion, and that the intent is clear but the prose is not the best in the petition for removal.

9. Has the Brief for Respondent in Opposition altered in any way the fact that Judge Peurifoy talked to Judges in Dallas County, Texas about No. 76935 A D before his Court and that any discussion with other Judges on about removing a case from the 95th District Court by Respondent could only be prejudicial to Petitioners, and that Respondent enforced against Petitioners a State Statute in a discriminatory manner?

10. Does this Court find the Equity side of the Federal Court might have been described by Edmund Burke when he said:

"It is not what a lawyer tells me I may do but what humanity, reason, and justice tell me I ought to do."

Imperial Commonwealth, Lord Elton, Reynal and Hitchcock, N. Y. 1946, p. 202.

Petitioners have correctly alleged denial of Constitutional Rights, of due process of law and the equal protection of the laws by Respondent, a judge in a State District Court and have correctly sought relief in the United States Court in equity.

CONCLUSION

It is respectfully submitted that the supplemental questions and exhibits herein be considered by this Court and the Petition for a Writ Certiorari be granted.

Respectfully submitted,
ROBERT M. WILLIAMSON, JR.,
MARJORIE WILLIAMSON,
Individually and as Independent
Executors of the Estate of
Effie Gilmer Williamson, deceased

CERTIFICATE OF SERVICE

We certify that two copies of the foregoing Supplemental Questions and Additional Exhibits to Petitioners' Petition for a Writ Certiorari were duly served by mailing, postage prepaid, two copies to Respondent, Judge Paul Pueritpy, to his address, the 95th District Court in Dallas County, Texas, on November ., 1963.

United States Court of Appeals

FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

OFFICE OF THE CLERK
POST OFFICE BOX 30120
NEW ORLEANS 30, LA.

January 7, 1962

Mrs. Marjorie Williamson
4923 Gaston Ave.
Dallas, Texas

Re: No. 19852. Effie Gilmer Williamson, et al vs.
Hon. Paul Pentifoy, etc.

Dear Mrs. Williamson:

Pursuant to your request I enclose the following papers:

1) Photocopy of Motion to Attach Exhibits to Plaintiffs' Motion for a Temporary Injunction and the Amended Motion, filed April 24, 1962, pages 41 through 43 of the certified record.

2) Photocopy of the signature page (page 3) of the Motion of Sol Goodell for Leave to Enter Appearance as Amicus Curiae, being page 56 of the certified record.

3) Photocopy of Exhibits I, II & III attached to the Motion to Amend the Order Signed May 25, 1962, being pages 70 through 73 of the certified record.

4) Photocopy of your handwritten designation of the portions of the certified record to be printed.

Upon my return to New Orleans on Monday, January 14th, I will request Mr. Bacon to (1) re-do the Index to the Mimeographed Record as you have indicated; (2) re-do page 15 of the mimeographed record so as to eliminate the unsigned letter now appearing at the bottom of that page; (3) completely eliminate the filing date of the Motion of Sol Goodell for Leave to Enter Appearance as Amicus Curiae; and (4) delete the marginal note on page 73 of the mimeographed record. I believe I have complied with your requests, and, should you need anything further please call me here in Houston at Capital 8-0611, Ext. 753.

Also, an extension of time for filing your brief has been

Designation of Contents

Records in the Microcopy Exhibit

March 21 - Motion for preliminary injunction and affidavit — pages

March 29 - Amended Motion

a bill pleading. — proposed [illegible] and affidavit [illegible]

April 4 - [illegible] Motion [illegible]

April 4 - allegation of jurisdiction.

April 4 - Pleading - Motion [illegible]

April 2, 4 - Amended allegation of jurisdiction

" " - Stipulation

May 1 - Answer and

May 2 - affidavit of Medina, plaintiff's witness, rejected

June 1 - Motion to Amend and Supplement Complaint (not exhibited)

June 4 - Motion to Amend Complaint

Memorandum-opinion — Filing exhibited

Letter of Pltf. May 18, 1962 — Exhibit (not exhibited on copy of Pltf's)

Motion and Stipulation

Affidavit

Motion to Amend Complaint

Motion to Amend Complaint

Motion to Amend Complaint

THOMPSON, KNIGHT, WRIGHT & SIMMONS
ATTORNEYS AND COUNSELORS
REPUBLIC NATIONAL BANK BUILDING
DALLAS 1, TEXAS

November 15, 1963

Mr. Robert M. Williamson, Jr.,
Miss Marjorie Williamson,
Individually and as Independent Executors
of the Estate of Effie Gilmer Williamson,
Deceased,
4923 Gaston Avenue,
Dallas, Texas.

Re: Robert M. Williamson, Jr., et al. v.
The Hon. Paul Peurifoy, No. 574
Petition for Writ of Certiorari in the
Supreme Court of the United States

Dear Mr. Williamson
and Miss Williamson:

Enclosed is a copy of the Brief of Respondent, Judge Paul Peurifoy, in Opposition to your Petition for Writ of Certiorari filed in the Supreme Court of the United States. This Brief is being forwarded to the Clerk of the United States Supreme Court today.

Will you please sign the enclosed acknowledgment of service of the Brief and return same to me so that it may be forwarded to the Clerk of the United States Supreme Court?

Very truly yours,

Sol Goodell

SG/RF
Encs.

1927 in undistributed assets in Trust, assets of which she was defrauded. Plaintiffs, Robert M. Williamson, Jr. and Marjorie Williamson are entitled to a 1/7 interest in the Trust properties in C. C. Gilmer Estate of which they were defrauded. Said interests in 1927 all undistributed assets in included 1/7 interest in the minerals in C. C. Gilmer Estate, 1/7 of 15/28 of the lands, and 1/7 of 15/28 of other assets and proceeds in the Estate in 1927 undistributed to plaintiffs and defendants should be required to account to Plaintiffs therefor.

WHEREFORE, premises considered, plaintiffs pray the Court that the defendants and each of them be cited to appear and answer this petition and that on final hearing hereof they have judgment against the defendants declaring of no force and effect some transaction intended by defendants and falsely represented by them effected May 12, 1927 and that ny deed dated May 12, 1927 to E. J. Fountain, Jr., Trustee, falsely represented valid by defendants to be void; and that the Court declare defendants are to make restitution of the properties of which plaintiff, Effie Gilmer Williamson and plaintiffs Marjorie Williamson and R. M. Williamson, Jr. were defrauded by misrepresentations and concealments which defendants and their agents and attorneys effected.

The properties of which Effie Gilmer Williamson was defrauded are a 1/7 mineral interest in the estate of Alexander Gilmer severed in 1906, from the lands sold and reserved in an unrecorded deed ___, 1906, and the share in the life income from proceeds from properties in 1906 not undistributed and concealed by defendants in 1927 and/or paid to defendants and/or falsely represented transferred into defendants'

corporation. The full share Effie Gilmer Williamson is entitled to in the C. C. Gilmer Estate is 1/7 of 15/28 of the income from all the properties in the Estate held by defendants in 1927 and not paid to her but concealed.

The properties of which Marjorie Williamson and R. M. Williamson, Jr. were defrauded are a total 1/7 mineral interest in the C. C. Gilmer Estate, and a share in 1/7 of 15/28 in the lands, or the cash paid by purchasers in the C. C. Gilmer Estate in 1927, and a share in 1/7 of 15/28 of all assets in the Estate in 1927 not distributed but concealed by defendants.

Mineral interests in the joint estates plaintiffs ask restitution of, mineral interests of which they were defrauded include a full 1/7 mineral interest, (severed from the lands in 1906) belonging to plaintiff Effie Gilmer Williamson, and a 1/7 mineral interest in the C. C. Gilmer Estate. Said mineral interests include their proportionate part of the oil, gas, and other minerals in, on, and under that may be produced from said lands, rentals, and cash bonuses. Further plaintiffs ask restitution for their proportionate part of the income, rent, revenue, profits and proceeds from said lands in C. C. Gilmer Estate in possession of defendants in 1927 and all proceeds from any other source from undistributed assets in the C. C. Gilmer Estate in 1927.

Plaintiffs further pray for a complete detailed accounting of all the plaintiffs' said interests falsely represented transferred into defendants' corporation and for costs of the suit and for such relief special and general in law and in equity to which they may be justly entitled.

Interlineation filed by Marjorie Williamson, Effie Gilmer Williamson and R. M. Williamson, Jr.

ALASKA'S COURTS TAPE THEIR TRIALS

Time and Cost of an Appeal Is Now Least in Nation

By LAWRENCE E. DAVIES
Special to The New York Times

ANCHORAGE, Alaska, Nov. 6—Two investigators from the Federal court system are on a mission to Alaska this week.

Warren Olney 3d, administrative director of the Federal courts, based in Washington, and Judge John Biggs Jr., chief judge of the Court of Appeals for the Third Circuit, in Philadelphia, came to Alaska to look into the appeals process in the state court.

"The cost of an appeal in Alaska when it was a territory and all of the courts were Federal courts was greater than anywhere else in the nation," Mr. Olney said today. "Now Alaska as a state is the cheapest state in the Union for a court appeal—and the fastest. We decided we had better find out how it is done."

Chief Justice Buell A. Nesbett of the Alaska Supreme Court estimates that the state is saving $250,000 a year through the use of electronic court reporting. The same method, he says, has reduced appeals by 75 per cent because the litigants, who calculated on long delays in final decisions—a year or two or even more—know now that their appeals will be heard with dispatch. Many of these cases had dealt with drunkenness and reckless driving charges.

The Alaska system has disturbed the National Association of Court Reporters, which sent a representative here a month or so ago to investigate.

"Court reporting is a dying profession," Mr. Olney said. "We needed an additional court reporter in Los Angeles within the last six months and had to go to Chicago to find him."

In Alaska the Magistrates' and Superior Court rooms are equipped with an electronic reporting system.

Each courtroom has five microphones. There is one for the judge, one for the clerk, one in the witness box, one at each counsel table. A loudspeaker is installed on the wall above the judge.

The clerk, called an "in-court deputy," operates a recorder, with a slowly moving tape, along with his regular duties as clerk. A pre-amplifier modulates voices on the way from the microphones to the recorder so that they all come out on the tape at about the same sound level.

Former State Senator Thomas B. Stewart, administrative director of the Alaska State Court System, said that in appeals from the Magistrates' Court to the Superior Court the Superior Court judge may "listen to the tape instead of having a new trial, with witnesses brought in all over again."

"Also," Mr. Stewart said, "as a device to save money, rather than have briefs printed and yet to preserve uniformity and neatness, the Supreme Court prescribed multilithing master sheets for submission of the briefs, specifying the kind of type, margins, and so forth. These sheets are filed with the clerk of the Supreme Court, who processes them through a multilith producing machine and distributes them to the lawyers and the justices. Lawyers are charged a fee commensurate with the actual cost of the paper and the labor."

Justice Nesbett also remarked that if any question arose during a trial as to what a witness had said "the loudspeaker is turned on in court and everybody listens—the judge and the counsel—and all make a stab at interpreting it."

"Under no condition," he asserted, "would we switch back to the old method. Hardly a month passes when we don't find a new advantage in this new method."

He went on:

"Courts are facing a terrific demand as a result of recent Supreme Court decisions enlarging the rights of indigents to appeal at the expense of the state. Many state courts are faced with problems of granting appeals in hundreds of disposed-of cases. Getting a transcript of the record from reporters is a crushing problem."